International Seabed Authority ISBA/21/C/21

# Council

Distr.: General
5 August 2015

Original: English

**Twenty-first session**
Kingston, Jamaica
13-24 July 2015

## Summary report of the President of the Council of the International Seabed Authority on the work of the Council during the twenty-first session

1. The twenty-first session of the International Seabed Authority was held in Kingston from 13 to 24 July 2015.

## I. Adoption of the agenda

2. At its 202nd meeting, on 13 July, the Council adopted its agenda for the twenty-first session, as contained in document ISBA/21/C/1.

## II. Election of the President and Vice-Presidents of the Council

3. At the same meeting, the Council elected Mr. Peter Thomson (Fiji) as President of the Council for the twenty-first session. Subsequently, following consultations in the regional groups, the Council elected the representatives of Brazil (Latin American and Caribbean States Group), Germany (Western European and other States Group), Nigeria (African States Group) and Poland (Eastern European States Group) as Vice-Presidents.

## III. Report of the Secretary-General concerning the credentials of members of the Council

4. At the 209th meeting, on 20 July, the Secretary-General of the Authority informed the Council that, to date, credentials had been received from 36 members of the Council. It was noted that, in accordance with the system agreed for the allocation of seats among the regional groups at the first session of the Council, the African States Group had nominated South Africa to participate in the meetings of the Council without the right to vote during the present session. It will be the turn of the Asia-Pacific States Group to relinquish a seat in the Council in 2016.

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## IV. Election to fill a vacancy on the Legal and Technical Commission

5. At its 202nd meeting, the Council elected Théophile Ndougsa Mbarga (Cameroon), Montserrat González Carrillo (Chile), Natsumi Kamiya (Japan) and Marzia Rovere (Italy) to fill the vacancies on the Legal and Technical Commission left by the resignations of Emmanuel Kalngui (Cameroon), Cristián Rodrigo Ramírez (Chile), Nobuyuki Okamoto (Japan) and Domenico da Empoli (Italy), respectively, for the remainder of their terms.

## V. Report on the status of contracts for exploration and related matters

6. At its 203rd meeting, on 15 July, the Council considered the report of the Secretary-General on the status of contracts for exploration in the Area (ISBA/21/C/8/Rev.1). As at 1 June 2015, 22 contracts for exploration had entered into force (14 for exploration for polymetallic nodules, 5 for exploration for polymetallic sulphides and 3 for exploration for cobalt-rich ferromanganese crusts). With regard to four remaining plans of work approved by the Council during the twentieth session, it was expected that contracts would be signed with the respective applicants in 2015. The Secretary-General also reported on the status of consultations regarding the implementation of the decision of the Assembly concerning overhead charges for the administration and supervision of exploration contracts (ISBA/19/A/12).

7. The Council took note of the report of the Secretary-General and some delegations congratulated the Secretary-General and the secretariat for their successful negotiations with contractors regarding the implementation of the decision of the Assembly. A few delegations stressed that contractors should pay the overhead charges well ahead of the session in 2016.

## VI. Report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters

8. At its 203rd meeting, the Council considered the report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters. During the discussion, the delegations of Singapore, Tonga and Tuvalu presented their respective national legislation. One delegation urged the members of the Authority to act quickly to adopt their national legislation ahead of the exploitation phase. Some delegations echoed a suggestion by the delegation of the Republic of Korea that the Authority provide a legal framework to harmonize legislation among States to help to expedite the process. Some delegations encouraged the secretariat to continue the comparative study of national legislation.

## VII. Report and recommendations of the Finance Committee

9. At its 204th, 208th and 212th meetings, on 16, 20 and 23 July, respectively, the Council considered the report of the Finance Committee (ISBA/21/A/6-ISBA/21/C/15). On the basis of the recommendations of the Finance Committee, the Council, at its 212th meeting, adopted a decision relating to financial and budgetary matters (ISBA/21/C/18).

## VIII. Report of the Chair of the Legal and Technical Commission on the work of the Commission

10. At its 205th and 206th meetings, on 16 and 17 July, respectively, the Council considered the report of the Chair of the Legal and Technical Commission on the work of the Commission during the twenty-first session (ISBA/21/C/16). The report covered the activities of the contractors, including the status of contracts for exploration, the implementation of training programmes and the allocation of training opportunities, the review of the recommended template for the annual reports of contractors, the review of the recommendations for the guidance of contractors on the reporting of actual and direct exploration expenditure, and consideration of the annual reports of contractors. It also covered the application for approval of a plan of work for exploration, the implementation of the environmental management plan, draft regulations for the exploitation of mineral resources in the Area, as well as data management and standardization. The Chair also reported on matters referred to the Commission by the Council, including the procedures and criteria for applications for the extension of an approved plan of work for exploration.

11. Many delegations welcomed the updated template for the annual reports of contractors and updated guidance for contractors on the reporting of actual and direct exploration expenditure. A few delegations expressed their concerns over the quality of the annual reports submitted by contractors, in particular the lack of data for the establishment of environmental baseline and the lack of data in electronic format. The importance of standardization of data from contractors was emphasized by some delegations. The Secretary-General responded that there were no serious problems of non-compliance. One delegation commended the fact that a total of 18 cruises had been conducted by contractors in 2014, amounting to 880 days at sea.

12. Many delegations supported the request to develop a data management strategy of the Authority. Some delegations were concerned by the lack of financial support in the budget for such a strategy and questioned how such a plan could be formulated without proper data. One delegation called for a mechanism to be developed for the continuing evaluation of data with a view to regularly assessing the status of confidential information.

13. At its 212th meeting, under agenda item 17 on other matters, the Council adopted a decision relating to the summary report of the Chair of the Legal and Technical Commission on its work during the twenty-first session (ISBA/21/C/20).

## IX. Consideration, with a view to approval, of applications for approval of plans of work for exploration in the Area

14. At its 208th meeting, the Council considered the report and recommendations of the Legal and Technical Commission relating to an application for the approval of a plan of work for exploration for polymetallic nodules submitted by China Minmetals Corporation, under the sponsorship of the Government of China (ISBA/21/C/2).

15. Acting on the recommendations of the Commission, the Council approved the application and requested the Secretary-General to issue the plan of work in the form of contract between the Authority and China MinMetals Corporation (ISBA/21/C/17).

## X. Consideration, with a view to approval, of procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982

16. At its 203rd, 204th, 207th, 210th, 211th and 212th meetings, on 15, 16, 17, 22 and 23 July, respectively, the Council considered the draft procedures and criteria for the extension of an approved plan of work for exploration proposed by the Commission (ISBA/21/C/WP.1). Strongly differing views were heard on the joint proposal by the African States Group and the Latin American and Caribbean States Group regarding the confirmation of sponsorship from the sponsoring States to the extension of exploration contracts, the role of the Legal and Technical Commission in reviewing the applications for the extension of contracts for exploration, and proposed modifications and additions to the programme of activities in the application for extension. A working group established by the Bureau of the Council met on the evening of 22 July and the morning of 23 July and submitted a compromise text incorporating the joint proposal into the draft decision of the Council relating to the present item, while keeping the working paper proposed by the Commission unchanged.

17. At its 212th meeting, the Council adopted a decision relating to the procedures and criteria for the extension of an approved plan of work for exploration (ISBA/21/C/19).

## XI. Consideration, with a view to adoption, of draft regulations for exploitation of mineral resources in the Area

18. At its 208th and 211th meetings, the Council considered the draft framework, high-level issues and action plan for developing a regulatory framework for deep-sea mineral exploitation in the Area, as recommended by the Commission, as well as a document submitted by the delegation of the Netherlands on addressing serious harm to the marine environment in the regulations for the exploitation of mineral resources in the Area (ISBA/21/C/13).

19. Many delegations supported proceeding with expediency towards a "zero draft" of the exploitation regulations by February 2016, to give a clearer picture of what the regulations might look like. Some delegations suggested that some flexibility be applied to the deadline for formulating the framework and that it be extended until 2017 or 2018, owing to the data-deficient environment and limited resources available in the budget for 2015 and 2016.

20. Some delegations emphasized the importance of protecting the environment. One delegation held the view that the exploitation code should contain environmental protection measures stronger than those contained in the exploration code and urged the Council to subscribe to the new international environmental laws, specifically the principle of intergenerational and intragenerational equity. Some delegations called for mechanisms for guarantees of environmental protection from contractors, sanctions for their non-compliance and the compulsory contribution to an environmental protection fund. One delegation recommended that the rights of coastal States be listed as another high-level issue. A few delegations expressed the need for environmental impact and social impact assessments. Many delegations welcomed the proposal by the delegation of the Netherlands on addressing serious harm to the marine environment.

21. One delegation favoured a payment mechanism that would allow optimum revenue from the commercial exploitation of mineral resources in the Area, while remaining competitive to attract investment in an emerging industry, adding that the payment mechanism should be characterized by transparency and simplicity. One delegation considered it premature to discuss the payment mechanism in advance of discussions on the exploitation code.

22. Some delegations suggested that the advisory opinion of the International Tribunal for the Law of the Sea could serve as an appropriate guide in formulating provisions relating to the liability and responsibility of the sponsoring State.

23. Many delegations encouraged transparency and a collaborative approach in developing the exploitation regulations. They also encouraged taking advantage of assistance from member States, international organizations, non-governmental organizations, mining enterprises and experts. The delegations of New Zealand, South Africa and the United Kingdom of Great Britain and Northern Ireland offered to provide assistance with regard to some priority deliverables and high-level issues for the exploitation regulations.

24. Delegations made recommendations on the identification of mining inspectors, risk assessment and other high-level issues and priority deliverables.

25. The Council noted with appreciation the Commission's work on the framework for the exploitation regulations and requested the Commission to continue its work on exploitation regulations as a matter of priority. The Council endorsed the Commission's list of priority deliverables for the development of the exploitation regulations over the following 12 to 18 months. The Council requested the Commission to consider, where relevant, the document submitted by the Netherlands on addressing serious harm to the marine environment, in the context of its work on developing the exploitation regulations. The Council called for broader stakeholder participation, including that of member States, to support and engage with the Authority so that specific views and opinions might be addressed at this stage of development.

## XII. Consideration of procedures for the election in 2016 of the members of the Legal and Technical Commission in accordance with article 163 of the United Nations on the Law of the Sea

26. At its 210th meeting, the Council considered the note by the secretariat on the procedures for the election in 2016 of the members of the Commission (ISBA/21/C/6). Many delegations raised concerns over the absence of some members from meetings of the Commission. A few delegations stated that, given the drafting of the exploitations regulations, the Commission required more expertise in the economics of mining projects, marine technology and environmental protection. The delegation of Cameroon recommended that candidates for the 2016 full election be independent, have no conflict of interest, possess technical expertise and be fully committed to participate in all meetings of the Commission, and also recommended that such guidelines for candidate selection be included in the letter from the Secretary-General to member States inviting the nomination of candidates.

27. The Council took note of the note by the secretariat and emphasized that the rules and procedures adopted by the Council in 2007 (see ISBA/13/C/6) must be strictly adhered to for the election of members to the Commission in 2016. The Council reiterated the importance of the continued participation of members in all sessions of the Commission.

## XIII. Cooperation with other relevant international organizations

28. The Council took note of the report of the Secretary-General on the status of consultation between the Authority and the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic (ISBA/21/C/9). While several delegations encouraged the Authority to continue its consultation with the OSPAR Commission with a view to joining the collective arrangement, some delegations considered that joining the collective arrangement at this stage would be premature.

29. The Council approved the agreement of cooperation between the International Maritime Organization and the Authority (ISBA/21/C/10) and the memorandum of understanding between the Authority and the Pacific Community (ISBA/21/C/11).

## XIV. Dates of the next session of the Council

30. The twenty-second session of the Council will be held from 11 to 22 July 2016. It will be the turn of the Eastern European States Group to nominate a candidate for the presidency of the Council in 2016.